



STATE BOARD OF EQUALIZATION

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Executive Director

January 3, 2005

Re: Escape Assessment After Audit

Dear Mr. :

This is in response to your letter dated October 5, 2004, addressed to Mr. Louis Ambrose, Supervising Tax Counsel, regarding an escape assessment that was issued after a mandatory audit was performed pursuant to Revenue and Taxation Code¹ section 469. You ask whether an assessor may correct an error involving the exercise of a value judgment under section 469 if the taxpayer has fully disclosed all of its taxable property on its property statement and the value of the property was enrolled by the assessor. You also ask whether the assessor has authority to correct such an error under section 4831.

As discussed below, we conclude that if a taxpayer filed a property statement which failed to properly classify taxable property, an assessor may issue an escape assessment under section 531.4 to the extent that such failure caused the assessor to assess the property at a lower valuation than the assessor would have entered on the roll if the property had been reported accurately. However, if the taxpayer accurately reported the property on the property statement, an assessor has no authority to correct assessment errors involving the exercise of value judgments. Additionally, the assessor is not authorized to correct such errors under section 4831.

Factual Background

You have provided the following facts:

A taxpayer owns analog and digital document processing equipment, which it leases to its customers throughout California. The taxpayer reported its analog document processing equipment as “copiers” and its digital document processing equipment as “computer peripherals” on its property statement. The counties enrolled the property either exactly as reported by the taxpayer, or modified to the extent that the six-year untrended life table promulgated by the California Assessors’ Association was applied to the analog document processing equipment.

Several counties performed mandatory audits pursuant to section 469. The audits disclosed that the taxpayer reported all of its taxable property on its property statement.

¹ Unless otherwise indicated, all section references are to the Revenue and Taxation Code.

However, an escape assessment was issued because the assessor changed the economic life table applied to digital document processing equipment from the computer peripheral table reported by the taxpayer to a six-year untrended life table.

Legal Analysis

Section 469 provides that if a taxpayer's locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer engaged in a profession, trade, or business has a full cash value of \$400,000 or more, the assessor is required to audit the taxpayer's books and records at least once every four years. If the result of an audit for any year discloses taxable property, which the taxpayer failed to report on its property statement, the assessor may issue an escape assessment to assess the property under section 531 et seq. Section 531 provides that "If any property belonging on the local roll has escaped assessment, the assessor shall assess the property on discovery"

If a taxpayer fails to file an accurate property statement, section 531.4 provides that ". . . to the extent that this failure causes the assessor not to assess the property or to assess it at a lower valuation than he would enter on the roll if the property had been reported to him accurately, that portion of the property which is not reported accurately, in whole or in part, shall be assessed as required by law." Both taxable property not previously enrolled and increases in value of property that has previously been enrolled are considered to be escaped property, subject to escape assessment. (Annot. 390.0080.)

Section 4831, subdivision (a) generally provides that any error resulting in incorrect entries on the roll may be corrected within four years after the making of the assessment being corrected. However, subdivision (a) does not apply to errors involving the exercise of value judgment or to escape assessments caused by a taxpayer's failure to file an accurate property statement. In this regard, section 4831 is not a limitation on the assessor's authority to make an escape assessment pursuant to section 531.4. Thus, if an incorrect entry on the roll is the result of an inaccurate property statement filed by the taxpayer, an escape assessment must be issued pursuant to section 531.4.

In this case, it is possible that the taxpayer may have filed an inaccurate property statement, by incorrectly reporting the digital document processing equipment as "computer peripherals" rather than as "copiers." As a result of such misclassification, the assessor may have assessed the property at a lower value based on the computer peripheral table reported by the taxpayer, instead of the six-year-untrended table applied to analog copiers, although it is not entirely clear from the facts submitted. If the taxpayer misclassified the digital document processing equipment as computer peripherals, section 531.4 authorizes the assessor to issue an escape assessment for the value of the equipment that was underassessed.

However, if the taxpayer accurately reported the digital document processing equipment as computer peripherals, the equipment is not escaped property, and therefore, not subject to an escape assessment under section 531.4. Thus, under these facts, the assessor may not issue an escape assessment for the digital document processing equipment to change the economic life table applied to digital document processing equipment from the computer peripheral table reported by the taxpayer to a six-year untrended table.

January 3, 2005

Additionally, if the taxpayer filed an accurate property statement and the assessor made an error by applying an incorrect valuation methodology, the assessor is not authorized to correct the error under section 4831 because such an error involved the exercise of a value judgment.

The views expressed in this letter are only advisory in nature; they represent the analysis of the legal staff of the Board based on present law and the facts set forth herein, and are not binding on any person or public entity.

Very truly yours,

/s/ Sophia Chung

Sophia Chung
Senior Tax Counsel

SC:jlh

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cc:	Mr. David Gau	MIC:63
	Mr. Dean Kinnee	MIC:64
	Ms. Mickie Stuckey	MIC:62
	Mr. Todd Gilman	MIC:70



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RAMON J. HIRSIG
Executive Director

April 6, 2006

Honorable Rick Auerbach
Los Angeles County Assessor
500 West Temple Street
Los Angeles, CA 90012-2770

Attn: Ms. Bonnie Oliver, Assistant Assessor

Subject: Comments on Proposed Annotation (CLD 2005-4)

Dear Ms. Oliver:

This is in response to your letter dated June 10, 2005, addressed to Annotation Coordinator Glenna Schultz, requesting clarification of proposed annotations 390.0055 and 580.0009. As currently drafted, those annotations address an assessor's authority, under Revenue and Taxation Code¹ section 4831 and section 531.4, to correct errors resulting in incorrect entries on the roll discovered as a result of a mandatory audit (Rev. & Tax. Code, § 469). Specifically, you have asked whether an error is correctable under both section 4831 and section 531.4 when a mandatory audit reveals that the assessee's incorrect reporting of property on its annual property statement caused that error. It is our opinion that such errors are not correctable under section 4831 since that section only allows for clerical-type error corrections to the roll *caused by the assessor or other county official*. Clerical errors caused by the *assessee* that result in a larger assessment than would have been otherwise entered on the roll are correctable under section 4831.5. Errors caused by the assessee that result in an *addition* to the roll must be corrected as an escape assessment under section 531.4. (See also Rev. & Tax. Code, § 4831, subd. (a)(2).)

If the locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer engaged in a profession, trade, or business has a full cash value of \$400,000 or more, the assessor is required to audit the taxpayer's books and records at least once every four years. (Rev. & Tax. Code, § 469.) If the result of an audit discloses that the taxpayer failed to file an accurate property statement, section 531.4 provides that "to the extent that this failure causes the assessor not to assess the property or to assess it at a lower valuation than he would enter on the roll if the property had been reported to him accurately, that portion of the property which is not reported accurately, in whole or in part, shall be assessed as required by law." Both taxable properties not previously enrolled, and increases in value of property that has previously been enrolled, are considered to be escaped property subject to assessment. (See Property Tax Annotation 390.0080, copy enclosed.)

In addition to section 531.4, another mechanism that allows county assessors to correct errors is section 4831. That section allows incorrect entries on the roll, including those found as a result of a mandatory audit, to be corrected within four years after the making of the assessment being corrected, except for: (1) errors involving the exercise of value judgments; and

¹ Unless otherwise specified, all further statutory references are to the Revenue and Taxation Code.

(2) escape assessments caused by the assessee's *failure to report* required information on its property statement. (Rev. & Tax. Code, § 4831, subd. (a).)

Further, section 4831 applies only to clerical-type errors. (See Assessors' Handbook Section 504, *Assessment of Personal Property and Fixtures* (AH 504), p. 187-188; see also Property Tax Annotation 390.0080, copy enclosed.) Clerical-type errors *caused by the assessee* that result in a higher assessment than would have been otherwise entered on the roll are correctable under section 4831.5. (AH 504, p. 188.) Errors *caused by the assessee* that result in an *addition* to the roll must be corrected as an escape assessment. (Ibid.)

You present the following scenario in your letter:

If a taxpayer manufactures property for sale, but also uses the same self-manufactured property within his business, the taxpayer must disclose all relevant information to enable the assessor to apply a level of trade adjustment. If the taxpayer fails to disclose the information, it may be discovered during audit. While it might appear that the auditor is making a value judgment to place a level of trade on the property the adjustment was caused by incorrect reporting by the taxpayer.

In the scenario above, since it is the assessee's mistake that caused the error to the roll, the error is not correctable under section 4831. If the assessee's mistake was a clerical-type error and caused the roll to be overvalued, a correction to the roll may be made under section 4831.5. If the assessee's mistake caused the roll to be undervalued, an escape assessment must be made under section 531.4.

The views expressed in this letter are only advisory in nature. They represent the analysis of the legal staff of the Board based on present law and the facts set forth herein. They are not binding on any person or entity.

Sincerely,



Richard Moon
Tax Counsel

Enclosure(s)

RM:eb

Prop/Nonprec/06/442-rm

cc: Mr. David Gau, MIC:63
Mr. Dean Kinnee, MIC:64
Ms. Mickie Stuckey, MIC:62
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